

APPLICANT:
John L. Ehrman

REQUEST: A variance to allow an attached garage within the required 20 foot side yard setback.

HEARING DATE: September 22, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5437

ZONING HEARING EXAMINER'S DECISION

APPLICANT: John Lewis Ehrman

LOCATION: 2642 Bailey Road, Forest Hill
Tax Map: 33 / Grid: 3A / Parcel: 312
Fourth Election District

ZONING: AG / Agricultural

REQUEST: A variance pursuant to Section 267-34B, Table II, of the Harford County Code to allow an attached garage within the required 20 foot side yard setback (proposed setback 3 feet 9 inches).

TESTIMONY AND EVIDENCE OF RECORD:

John L. Ehrman, the Applicant, testified that he wished to build a 24 foot by 26 foot garage for storage of his vehicles. The garage would be located to the right, or westerly side of the subject property.

Mr. Ehrman testified that the back of his lot, which is approximately 100 feet by 230 feet in size, drops off sharply by approximately 8 to 10 feet. Because of that configuration, it would be difficult to build a garage at that location. Furthermore, Mr. Ehrman's house is the last one in a series of homes built along a ridge line. Much of the surface water which comes off this ridge drains through the back of the Ehrman property. A garage, or any improvement, in that area would interfere with this fairly significant drainage pattern. Mr. Ehrman's house is also located only approximately 20 feet from the side lot line on its left or easterly side, which places the house on the setback line. Accordingly, it would be impossible for him to build any garage in that location without a significant violation of the setback. Mr. Ehrman's well is located in the front of the house which would prohibit the garage from being built in that area.

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Mr. Ehrman described his house as being a 24 foot by 50 foot wide rancher. His niece and her daughter live in the property with him. He testified that the proposed garage would be in keeping with other properties in the neighborhood, which have similar garages.

Mr. Ehrman's immediately adjoining residential neighbor, to his west side, would be most immediately impacted by the variance. Mr. Ehrman indicated, however, that he had spoken to that neighbor and no opposition was expressed. Mr. Ehrman's property on all other sides is surrounded by farm land. He does not believe there would be any adverse impact on the neighborhood if the variance were granted.

For the Harford County Department of Planning and Zoning testified Anthony McClune, who presented the Report and Recommendation of the Department. The Department feels that the subject property is unique, with the only practical location for the garage to be on its right side. The lot is impacted by water run-off because of its elevation below that of the other homes along the ridge line. Furthermore, locating a garage to the rear of the home would require considerable grading. The proposed garage is similar to others in the neighborhood. Mr. McClune testified that there would be no adverse impact on any surrounding property and, because of the existing landscaping, no additional landscaping would be necessary in order to screen the garage from adjoining property.

There was no evidence or testimony presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

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- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant proposes to construct a garage which, in size and appearance, would be similar to others in the neighborhood and, indeed, similar to others throughout Harford County. The Applicant, however, suffers unusual site constraints in that his well located in the front of his yard, and the relatively significant drainage pattern to the rear of his property virtually prohibits a garage or any structure from being located in that area. The Applicant's house abuts the side lot line to its left, which would equally prohibit a garage of the size proposed by the Applicant from being constructed at that location. The only remaining area would, accordingly, be that as proposed.

It is accordingly found that the Applicant suffers unusual topographical conditions which would cause the Zoning Code to impact upon him in a way which would create a practical difficulty and an unusual hardship. That difficulty and hardship is that the Applicant, without the granting of a variance, would be unable to build a garage similar in size to others in the neighborhood.

It is further found that the only potential impact on any individual or property owner would be that on the immediately adjacent neighbor. The testimony and the exhibits in the file indicate that sufficient screening now exists between the two properties so as to mitigate that impact. The Hearing Examiner further relies upon the statements of the Applicant that he had consulted with that neighbor, and the neighbor had expressed no opposition.

Accordingly, it is found that the proposed use would have no adverse impact, and is the minimum variance necessary in order to grant the relief requested.

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CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the following:

1. The Applicant shall obtain all necessary permits and inspections for the garage.
2. The garage shall not be used for the storage of construction equipment or commercial vehicles.
3. The garage shall not be used for furtherance of a business.
4. Adequate landscaping between the garage and the immediately adjoining residential neighbor shall be maintained at all times, and replaced if necessary.
5. All outdoor lighting must be directed away from the adjoining residential neighbor.

Date: October 19, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner